

USDC SDNY
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ORDER OF SERVICE

Plaintiff brings this pro se action under Title VII of the Civil Rights Act of 1964 (“Title VII”) and the Age Discrimination in Employment Act of 1967 (“ADEA”) asserting that the defendants discriminated against him because of his sex, national origin, and age. Because Plaintiff seems to also assert that the defendants discriminated against him because of his race, the Court construes the complaint as asserting additional claims under Title VII as well as claims under 42 U.S.C. § 1981. Dkt. No. 1. The Court further construes the complaint as asserting claims under the New York State and City Human Rights Laws. By order dated January 9, 2020, the Court granted Plaintiff’s request to proceed in forma pauperis. Dkt. No. 3. On April 20, 2020, Plaintiff amended his complaint. Dkt. No. 8.

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure

generally requires that the summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the amended complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for Defendants. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.


CONCLUSION

The Clerk of Court is instructed to issue summonses, complete the USM-285 forms with the addresses for Defendants and deliver all documents necessary to effect service to the U.S.

Marshals Service.

SO ORDERED.

Dated: May 4, 2021
New York, New York



GREGORY H. WOODS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

Cave Design New York

2488 Grand Concourse Suite 404
Bronx, NY 10458

Anabel Batista

2488 Grand Concourse Suite 404
Bronx, NY 10458

Karen Guarente

2488 Grand Concourse Suite 404
Bronx, NY 10458

Iesha Graham

2488 Grand Concourse Suite 404
Bronx, NY 10458